



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/780,964	02/09/2001	Gregory A. D'Amico	14104/198998	6919
23370	7590	02/07/2006	EXAMINER	
JOHN S. PRATT, ESQ KILPATRICK STOCKTON, LLP 1100 PEACHTREE STREET ATLANTA, GA 30309			NGUYEN, NGA B	
			ART UNIT	PAPER NUMBER
			3628	

DATE MAILED: 02/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/780,964

Applicant(s)

D'AMICO ET AL.

Examiner

Nga B. Nguyen

Art Unit

3628

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 August 2005.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-28 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. This Office Action is the answer to the Amendment filed on August 24, 2005, which paper has been placed of record in the file.
2. Claims 1-28 are pending in this application.

Response to Arguments/Amendment

3. Applicant's arguments with respect to claims 1-28 have been considered but are moot in view of new grounds of rejection.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wallman, U.S. Patent No. 6,601,044.

Wallman discloses a computer-implemented method of managing a financial investment fund having a plurality of securities, the managing being conducted by a plurality of participants, comprising:

receiving votes via a computer network from the participants of the financial investment fund regarding executing a market order for a security, wherein each

Art Unit: 3628

participants is a partial-owner of the financial investment fund (column 20, lines 52-55, the computer-based system provides: all shareholder rights with respect to each security in the portfolio to the investor and full ownership and control over all investment, voting and other decision regarding such securities; column 44, lines 50-55, the investor has the right to vote the underlying stocks; column 45, lines 10-15, the strengths and advantages of the invention include relative to mutual funds: the ability to exercise voting and other shareholder and corporate governance rights and decisions, such as whether to tender securities in a takeover).

Wallman does not disclose: totaling the votes to produce a total vote count; comparing the total vote count with a market order threshold, wherein the market order threshold is stored in a database, executing the market order, if the total vote count is greater than the market order threshold; and wherein executing the market order for the security involves altering the composition of the financial Investment fund with respect to the security. However, Official Notice is taken that it is old and well known in the art of managing mutual funds that totaling the votes to produce a total vote count; comparing the total vote count with a market order threshold, wherein the market order threshold is stored in a database, executing the market order, if the total vote count is greater than the market order threshold; and wherein executing the market order for the security involves altering the composition of the financial Investment fund with respect to the security. Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to modify Wallman's to incorporate the well known

features above for the purpose of providing more efficiency in managing mutual funds, thereby, reducing the risk of loss in investing.

Regarding to claim 2, Wallman does not disclose wherein the security comprises a candidate security and receiving votes comprises receiving the votes for the candidate security, the method further including receiving nominators for security to become the candidate security, totaling the nominations for a nominated security to produce a total nominated vote count, comparing the total nominated vote count with a nomination threshold, and converting the nominated security into the candidate security if the total nominated vote count exceeds the nomination threshold. However, such features are well known in the art of voting and managing mutual funds. Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to modify Wallman's to incorporate the well known features above for the purpose of providing more efficiency in managing mutual funds, thereby, reducing the risk of loss in investing.

Regarding to claims 4-5, Wallman further discloses wherein executing the market order comprises purchasing the security and selling the security (column 27, lines 38-60).

Regarding to claims 6-10, Wallman does not disclose wherein the market order threshold comprises a market order percent, receiving the market order percent from the participant, wherein receiving the market order percent comprises setting the market order percent based on input received from the participants on a regular basis, receiving the market order votes from the participants, averaging the market order votes to arrive

Art Unit: 3628

at the market order percent occurs on a regular basis, and setting a minimum market order percent. However, such features are well known in the art of managing mutual funds. Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to modify Wallman's to incorporate the well known features above for the purpose of providing more efficiency in managing mutual funds, thereby, reducing the risk of loss in investing.

Regarding to claim 11, Wallman further discloses receiving additional funds from the participants and investing the additional funds by receiving votes (column 27, lines 38-60). Wallman does not disclose totaling the votes, comparing the toll vote count, and executing the market order. However, totaling the votes, comparing the toll vote count, and executing the market order is well known in the art. (See claim 1 for more details).

Regarding to claim 12, Wallman further discloses receiving votes comprises receiving votes for a plurality of securities (column 20, lines 52-55, the computer-based system provides: all shareholder rights with respect to each security in the portfolio to the investor and full ownership and control over all investment, voting and other decision regarding such securities).

Regarding to claim 13, Wallman further discloses wherein executing the market market order comprise instructing a financial provider to execute the market order for the security (column 22, lines 25-35).

Regarding to claims 14-15, Wallman further discloses reviewing the market order to ensure the market order complies with rules regarding management of the financial

Art Unit: 3628

investment fund, wherein reviewing comprises having an advisor oversee management of the financial investment fund (column 26, line 65-column 27, line 28).

Claims 16-28 contain similar limitations found in claims 1-15 above, therefore, are rejected by the same rationale.

Conclusion

6. Claims 1-28 are rejected.

7. The prior arts made of record and not relied upon is considered pertinent to applicant's disclosure:

Hartnett (US 6,112,188) discloses computerized methods and tools for developing and implementing economic policies are provided. The methods and tools, which do not rely on advanced communications of financial market trading infrastructure, include the principal steps of preparing a privatization business plan.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner Nga B. Nguyen whose telephone number is (571) 272-6796. The examiner can normally be reached on Monday-Thursday from 9:00AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hyung S. Sough can be reached on (571) 272-6799.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 272-3600.

Art Unit: 3628

9. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

C/o Technology Center 3600

Washington, DC 20231

Or faxed to:

(571) 273-8300 (for formal communication intended for entry),

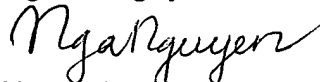
or

(571) 273-0325 (for informal or draft communication, please label

"PROPOSED" or "DRAFT").

Hand-delivered responses should be brought to Knox building, 501 Dulany
Street, Alexandria, VA, First Floor (Receptionist).

Nga B. Nguyen



November 25, 2005